



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 16, 1995

Mr. Yuri Calderón
Assistant School Attorney
Houston Independent School District
Hattie Mae White Administration Building
3830 Richmond Avenue
Houston, Texas 77027-5838

OR95-126

Dear Mr. Calderón:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30895.

The Houston Independent School District (the "school district") received a request for the written statements obtained from school district students during an investigation of a certain school district employee. You contend that the requested records are excepted from required public disclosure under sections 552.026 and 552.114 of the Government Code.

Under section 552.114(a), information is excepted "if it is information in a student record at an educational institution funded wholly or partly by state revenue." Section 552.026 incorporates another source of law, specifically, the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), into the Open Records Act, providing that the act

does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Gov't Code § 552.026; *see also* Open Records Decision No. 431 (1985). FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) . . .) of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1). "Education records" are records which:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

Id. § 1232g(a)(4)(A). Sections 552.114(a) and 552.026 may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a particular student" or "one or both parents of such a student." Open Records Decision No. 332 (1982) at 3. Thus, only information identifying or tending to identify students or their parents must be withheld from required public disclosure.

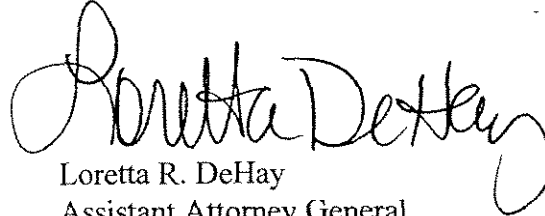
We have reviewed the information submitted for our consideration. We agree that much of the information constitutes student records that must be withheld to avoid personally identifying a particular student or one or both parents of such a student. For your convenience we have marked the information that must be withheld under FERPA and section 552.114 of the Government Code.¹ The remaining information must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records.

¹We do not address in this ruling what due process rights, if any, the requestor's client has in the information we have determined must be withheld under FERPA and section 552.114 of the Government Code.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Loretta DeHay". The signature is fluid and cursive, with a large loop at the end.

Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LBC/rho

Ref.: ID# 30895

Enclosures: Marked documents

cc: Mr. Clay T. Grover
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(w/o enclosures)